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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/627,157   | 07/25/2003  | Darrell S. Keith     | 07004.1000          | 2519             |
| 33697  | 7590        | 01/25/2005           | EXAMINER            |                  |
| GREGORY SCOTT SMITH<br>P.O. BOX 88148<br>ATLANTA, GA 30356 |             |                      |                     | ZEADE, BERTRAND  |
|  |             | ART UNIT             |                     | PAPER NUMBER     |
|  |             | 2875                 |                     |                  |

DATE MAILED: 01/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                 |              |
|------------------------------|-----------------|--------------|
| <b>Office Action Summary</b> | Application No. | Applicant(s) |
|                              | 10/627,157      | KEITH ET AL. |
|                              | Examiner        | Art Unit     |
|                              | Bertrand Zeade  | 2875         |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 25 July 2003.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-22 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) 19-22 is/are allowed.  
 6) Claim(s) 1,3-8,11 and 17 is/are rejected.  
 7) Claim(s) 2, 10,12-16,18 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date 07/25/05.
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Sherwood et al. (U.S. 6594942).

Sherwood ('942) discloses a battery powered lighted rod having:

Regarding claim 1 as shown in (figs. 1 and 19), providing a light source (44) interior to the rod (20) and located at one end of the rod (20), and directing the light waves of the light source (46) towards the opposite end or tip (48) of the rod (20) through the hollow core or (EL).

2. Claims 3-5, 8, 11 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Toelken (U.S. 6061946).

Toelken (U.S. 6061946) discloses a lighted fishing rod and production thereof having:

Regarding claim 3, a translucent rod (col. 9, lines 31-32) having a hollow core (176). A light source (102) generally located within the hollow core substantially near

one end of the hollow core (176) in such a manner as to direct the light (102) waves toward the opposite end of the hollow core.

Regarding claim 4, the hollow core (176) is tapered from the base end to the tip end and the light source (102) is generally located within the hollow core substantially near the base end (152).

Regarding claim 5, a power supply (162) for powering said light source (102), means (148) for controlling the intensity of the light source (102).

Regarding claim 8, the light source (102) is a light emitting diode.

Regarding claim 11 as shown in fig. 2, the translucent rod (10) includes an opaque material covering portions (as shown in fig. 2 on the rod between 24' and 34') of the translucent rod and thereby controlling the illumination of the translucent rod (10).

Regarding claim 17, the translucent rod (10) is substantially transparent (col. 9, lines 31-32).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Toelken ('946) in view of Scott (U.S.5406737).

Toelken ('946) discloses the claimed invention except for a potentiometer.

Scott ('737) discloses an apparatus having:

Regarding claim 6 as shown in (fig.1, 5), the rod (12) includes a handle with an end portion and the means (76) for controlling the intensity of the light source further comprises a potentiometer (72) recessed within the end portion of the handle and operable to adjust the illumination intensity of the light source.

Regarding claim 7 as shown in (fig.1, 5), the rod (12) includes a handle with an end portion and the means (76) for controlling the intensity of the light source further comprising a potentiometer (72) recessed within the end portion of the handle and operable to adjust the illumination intensity of the light to source at various levels between on and off.

It would have been obvious to one ordinary skill in the art at the time of invention to use the battery powered lighted rod of Toelken ('946) with the potentiometer taught by Scott ('373), since the potentiometer of Scott ('737) would provide the lighted fishing rod of Toelken ('946) with a control of the electrical potential and maintaining the electrical contact between a contact portion of the conducting members.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Toelken ('946) in view of Barrett (U.S.5003437).

Toelken discloses the claimed invention except for a reflective surface.

However, Barrett ('437) teaches an illuminated boat hook structure having:

Regarding claim 9 as shown in (figs, 1-2) of Barrett ('437), the light source (34) is mounted within a reflective surface (32) for focusing the light waves toward the tip end or viewing head (40).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the lighted fishing rod of Toelken ('946) with the reflective surface taught by Barrett ('437), since the reflective surface of Barrett ('437) would provide the lighted fishing rod of Toelken ('946) with bright illumination output very attractive to fish.

#### ***Allowable Subject Matter***

5. Claim 19 is allowed.

The following is a statement of reasons for the indication of allowable subject matter: The prior art of record does not teach a translucent rod having a hollow core, a light source generally located within the hollow core refracting the light waves further comprises a light wave conducting medium internal to the fishing rod (10), the light wave conducting medium having refractive characteristics to direct light waves traveling through the medium external to the rod (col. 3, line 17-28).

Claims 20-22 are also allowed because of their dependency from claim 19.

6. Claims 2, 10 and 12-16, 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: the prior art of record does not teach whereby the rod is illuminated by the light waves being to the tapered hollow core as cited in claim 2.

Claim 10 cites a concave member that includes a layer of electroplated nickel.

Claim 12 cites an opaque material on the rod between is applied to the translucent rod in a manner to create a gradient pattern for the selective illumination of the rod.

Claim 13 cites a coating of phosphor applied to the surface of the hollow core.

Claim 14 cites at least one light refractor is located within the hollow core and operates to refract the light waves external to the translucent rod.

Claims 15-16 are also objected because of their dependency from claim 14.

Claim 18 cites the translucent rod in proximity to the light source, is partially coated with an opaque layer to provide a gradient pattern to form a semi-opaque layer.

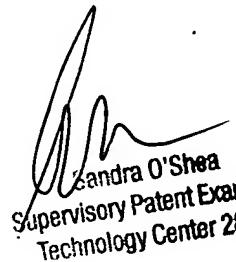
***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bertrand Zeade whose telephone number is 571-272-2387. The examiner can normally be reached on 9:30 AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on 571-272-2378. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Bertrand Zeade  
Examiner  
Art Unit 2875



Sandra O'Shea  
Supervisory Patent Examiner  
Technology Center 2800